

LAND DIVISIONS ORDINANCE No. 3743

(Replaces Subdivisions Ordinance)

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LAND DIVISIONS ORDINANCE No. 3743

(Replaces Subdivisions Ordinance)

ARTICLE I. IN GENERAL

Sec. 48-1. Purposes.

The purposes of this chapter are to:

- (1) Provide for the orderly growth and harmonious development of the city;
- (2) Ensure adequate traffic, transit and non-vehicular circulation through coordinated street systems with relation to major thoroughfares, adjoining land and public facilities, including provisions for bicycle and pedestrian ways;
- (3) Achieve individual lots of reasonable utility;
- (4) Achieve safe and functional commercial developments;
- (5) Secure adequate provisions for water supply, drainage, wastewater collection/treatment and other health requirements;
- (6) Ensure consideration for adequate sites for schools, recreation areas and other public facilities;
- (7) Ensure that proposed land development provides all infrastructure and easements to support that development and future development that relies on such infrastructure and easements;
- (8) Promote the conveyance of land by accurate legal description;
- (9) Assure conformity to city, state and federal statutes, ordinances, regulations, plans and policies;
- (10) Operate in conjunction with codes and regulations relating to fire and building safety, health and sanitation, flood control and drainage, transportation and traffic control, solid and hazardous waste, and pollution control, to promote and protect the public health and safety; and
- (11) Provide logical, efficient procedures for the achievement of these purposes.

Sec. 48-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of correction means a document to effect minor changes to a land division.

Condominium means real estate, units/suites of which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the unit/suite owners. Condominium includes a cooperative, community apartment, townhouse, non-residential development, timeshare, hotel with unit ownerships, or similarly-owned project.

Controlled access means an entryway with a guard house, gate or other means of limiting entrance to authorized persons.

Department means the department responsible for planning and development services.

Design Standards and Policies Manual means the document detailing the city's specific requirements to develop land, including procedures, policies, forms, document standards and construction standards to help administer this chapter, among other purposes.

Development master plan means a conceptual, integrated design and infrastructure plan for the development of a master planned property.

Easement means a right to use land of another for designated purposes, as shown on a recorded subdivision, recorded plat or described by metes and bounds.

Final plat means the map of all or part of a subdivision, minor subdivision or condominium, intended, upon approval, for recordation.

General manager means the city department head(s) whose responsibilities include planning and development functions, or designee.

General Plan means a comprehensive plan, or part thereof, and all amendments, providing for the future growth and development of the city, adopted by the city council and ratified by the voters.

Improvement plans means plans, profiles, studies, cross sections and other required details for the construction of all improvements.

Land division means any method of creating or recreating a lot, tract, parcel, easement, public street, private street or new street, including, but not limited to, subdivisions, minor subdivisions, condominiums, perimeter exceptions, and changes to recorded land divisions.

Lot means a piece of land separated from another piece of land by description - such as a recorded subdivision, recorded plat or metes and bounds - that meets all the property development standards of the applicable zoning district.

Minor subdivision means a subdivision of five (5) or fewer lots.

Owner means a person or organization, or designee, with recorded title to one or more lots, parcels, or tracts.

Parcel means land typically described by metes and bounds, including lots, which may be divided.

Perimeter exception means a land division procedure in which the development standards are applied to the land as defined by its perimeter, rather than by the individual lots, tracts and parcels into which the land may be divided.

Perimeter exception development agreement means a contract between the city and an owner to implement the requirements arising from a perimeter exception.

Preliminary plat means the proposed plan of a subdivision.

Public improvements means all installations, equipment and facilities for all public services and uses, including, but not limited to, streets, trails, storm and sanitary sewers, drainage, irrigation, flood control, recreation, landscaping, water and other public utilities.

Right-of-way means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is intended for use by the public for street, highway, alley, pedestrian walkway, bikeway, utilities or drainage purposes.

Shared facilities agreement means a document setting forth the property owners' responsibilities for shared public and private facilities shown on an approved recorded document. The agreement includes provisions for permanent management, assurances for meeting all ordinance standards, funding and maintenance of shared public and private facilities, and may include provisions to plan and construct shared public facilities.

Subdivision means the division of any land for financing, sale or lease:

- (a) Into four (4) or more lots or tracts, or
- (b) Into two (2) or more lots or tracts if a new street is involved, or
- (c) Into more than two (2) lots or tracts if the boundaries of the land have been fixed by a recorded plat, or
- (d) Into four (4) or more condominiums or similarly-owned projects.

Subdivision does not mean:

- (a) The sale or exchange of land to or between adjoining land owners if such sale or exchange does not create additional lots, or
- (b) The partitioning of land in accordance with state statutes regulating the partitioning of land in common ownership, or
- (c) The leasing of apartments, offices, stores or similar space in a building or trailer park, or
- (d) The leasing of mineral, oil or gas rights.

Street means any right-of-way or tract used for road, highway and/or alley purposes, which may also include facilities used for pedestrian walkway, bikeway, trails, utilities or drainage purposes, whether or not (1) improved, (2) accepted for maintenance by the city, or (3) shown on a recorded plat or other document.

Private street means any street owned and maintained by an entity other than the city.

Public street means any street that is dedicated as public right-of way.

New street means a (i) public street created by dedicating public right-of-way or private street created by granting a tract, and (ii) designed primarily to serve only the lots in the land division requiring its creation.

Tract means a commonly-owned parcel of land separated from another parcel of land described in a recorded land division, and provided for common purposes such as streets, drainage or open space.

Utilities means all installations, equipment and facilities furnishing public services such as electricity, gas, communications, water, drainage, sewage disposal or flood control.

Waiver request means a request for a waiver of or reduction to public improvement requirements submitted for a proposed residential minor subdivision.

Zoning Ordinance means the Zoning Ordinance adopted by the city.

Sec. 48-3. Compliance with this chapter.

(a) No person shall sell or lease, offer for sale or lease, or exchange any lot, tract or parcel which:

(1) Is within a subdivision without having first recorded an approved final plat in conformance with this chapter; or

(2) Is not within a subdivision without having first recorded an approved document creating the lot, tract or parcel in conformance with this chapter.

(b) No person shall create a lot, tract or parcel; assemble lots, tracts or parcels; or adjust a lot, tract or parcel line within the city without the department's written approval on the appropriate document as set forth in this chapter. The department may require a site plan or other document showing the development potential of any land division.

(c) The city does not recognize lots, tracts or parcels created by procedures other than those set forth in this chapter. The city shall not issue permits on lots, tracts or parcels created by procedures other than those set forth in this chapter.

(d) A building permit shall be issued for construction on any lot, tract or parcel only after the city has received a copy of the recorded document showing that the lot, tract or parcel was created in conformance with all applicable laws.

Sec. 48-4. Conformity with other rules.

(a) Each land division and each change to a land division approved under this chapter shall conform with:

(1) All applicable statutes, rules and regulations of the United States government, the state of Arizona and Maricopa County;

(2) The Zoning Ordinance, Design Standards and Policies Manual and all other applicable ordinances, regulations and policies of the city;

(3) The General Plan and all other land use, transportation, utility and other plans adopted by the city council;

(4) All intergovernmental and other agreements adopted by the city council; and

(5) All master plans applicable to the land division.

(b) At each stage of any land division procedure, the owner, not the city, is responsible for conformance with the statutes, rules, regulations, ordinances, plans and policies referred to in this section.

(c) The documents submitted at each stage of a land division shall conform to the statutes, rules, regulations, ordinances, plans and policies in effect when the documents are submitted.

Sec. 48-5. Design Standards and Policies Manual.

The city council authorizes the Development Review Board to adopt, review, maintain and amend the Design Standards and Policies Manual.

Sec. 48-6. Land for public improvements.

(a) Where a land division contains all or part of a park, recreation area, school or fire station as shown on the General Plan, in a city council-approved master plan, or as stipulated in connection with a zoning map amendment, such site shall be dedicated in fee to the city or other public agency, or reserved for acquisition by the city or other public agency. The reservation shall be recorded before or with the recordation of the final land division document. The acquisition of the site shall be in conformance with state statutes.

(b) Where a land division includes land to be used for streets, trails, storm and sanitary sewers, drainage, irrigation, flood control, recreation, landscaping, water and other public improvements, the city may require the owner to dedicate to the city an easement or tract for such public improvements on the recorded land division document.

Sec. 48-7. General requirements and limitations.

(a) If the city staff determines that a zoning map amendment is required, the owner is responsible for obtaining the amendment before receiving approval of any land division document.

(b) At each stage of any land division procedure, the city may require the owner to provide additional information or make revisions.

(c) Until a final plat is recorded, approval at any stage of a land division procedure does not assure:

- (1) Acceptance of right-of way dedications,
- (2) Approval at the next stage of the land division procedure,
- (3) Authorization to record a final plat, or
- (4) Issuance of any permits.

(d) All residential lots shall have frontage on and access to a public street or private street in conformance with the city code. All non-residential lots shall have frontage on and/or access to a public street or private street in conformance with the city code.

(e) All parcels shall have access to a public street or private street in conformance with the city code.

(f) Each private street shall be a tract and provide controlled access to a public street.

(g) Each proposed lot and parcel shall contribute its proportionate share to public improvements and bear the cost of public improvements for the proposed lot and parcel. Using the guidelines set forth in the Design Standards and Policies Manual, the city staff will determine to what extent a proposed tract shall contribute its proportionate share to public improvements and bear the cost of bringing public improvements to the proposed tract. The city may require the owner to dedicate rights-of-way, tracts and easements for public improvements. The city may require the owner to provide, within a specific time, on-site and off-site public improvements in conformance with any applicable zoning approval, the current city code and Design Standards and Policies Manual.

(h) All land and easements dedicated or reverted to the city shall be dedicated/reverted on forms approved by the city attorney.

(i) The Development Review Board may designate land as unsuitable for division because of periodic flooding, unstable soils, irregular topography or other conditions that compromise the public health, safety and welfare.

(j) A land surveyor registered in Arizona shall seal each final plat and any other document to record a land division, and certify that the plat or other document is accurate and the monuments have been set as described. An engineer registered in Arizona shall prepare and seal each improvement plan, and certify that the improvement plan is either in conformance with the Design Standards and Policies Manual or otherwise approved by the general manager.

(k) The city shall be responsible for recording all final documents reflecting approved land divisions as set forth in this chapter. A final document reflecting an approved land division shall be recorded only after all applicable stipulations have been satisfied, as determined by the city staff. The owner may appeal the city staff's decision as set forth in this chapter.

(l) After recordation, any change to a development agreement, shared facilities agreement or other land division document is subject to city staff review and approval.

(m) Before the city accepts the public improvements and releases any assurance, the owner shall submit to the city as-built plans for the public improvements in any rights-of-way or tracts in the land division.

Sec. 48-8. Interpretation of chapter.

The general manager shall interpret this chapter.

Sec. 48-9. Fees generally.

(a) The fee for submission of any document shall be due and payable at the time the document is submitted.

(b) The applicant shall pay the applicable fee at each stage of any land division procedure. The applicable fee shall be as set forth on the Fee Schedule most recently adopted before the submission of the document.

Sec. 48-10. Deadlines and expirations.

(a) Each land division procedure includes deadlines for submittals and expiration dates for certain submittals. This section sets forth those deadlines and expiration dates for submittals, any procedure to extend the deadlines and submittals, and the consequences of any expiration. If there is no procedure to extend a deadline, the deadline is firm. If there is no procedure to extend the expiration date for a submittal, there is no extension. However, the owner may appeal a deadline or extension decision, as provided in appeals provisions of this chapter.

(b) No extension of a deadline or expiration date shall be granted unless the owner submits a written request for the extension before the deadline or expiration date. An extension shall be granted for good cause, for the time reasonably estimated to complete the work required.

(c) The owner is responsible for diligently pursuing the proposed land division. The owner, not the city, is responsible for keeping apprised of applicable deadlines and expirations. The owner shall make each submission and revised submission in time to allow reasonable city staff review before the expiration of any deadline.

(d) If an owner wishes to proceed after a deadline has passed, or a submittal has expired, the owner shall restart the land division procedure from Stage I of the procedure as outlined in this chapter, and pay whatever fees are applicable to the procedure at the time of renewal.

(e) In the master planned property procedure:

(1) The development master plan shall remain valid for sixty (60) months after its approval. The owner may amend the development master plan at any time within the sixty (60) month period by submitting revisions of the development master plan to the city staff, subject to city staff approval as set forth in this chapter. At any time within the sixty (60) month period, the city staff may require the owner to amend the entire development master plan, based on revisions initiated by the owner.

(2) If there is significant development activity on the site, as determined by the city staff, the owner may extend the validity of a development master plan beyond sixty (60) months by filing for an updated development master plan at any time during the last twelve (12) months of the sixty (60) month period. The updated development master plan shall be subject to city staff approval as set forth in this chapter. The city staff shall mark and date the updated development master plan to indicate how long the updated development master plan is valid. The updated development master plans shall be valid for no less than twelve (12) months and no more than sixty (60) months, as determined by the city staff's reasonable estimate to construct all public improvements. If there is significant development activity on the site, as determined by the city staff, the owner may continue to extend the validity of a development master plan by preparing an updated development master plan in conformance with this subsection at any time during the last twelve (12) months of the period of validity.

(3) After approval by the city staff, a master planned property plat shall be valid for ninety (90) days before recordation. The general manager may grant one ninety (90) day extension of a master planned property plat.

(f) In the subdivision procedure:

(1) The owner shall submit a preliminary plat application within six (6) months after the pre-application conference.

(2) An approved preliminary plat is valid for twelve (12) months. If the owner does not receive city council approval of the final plat before the preliminary plat expires, the owner may request an extension. The Development Review Board may grant one (1) extension of a preliminary plat up to twelve (12) months.

(3) After approval, all improvement plans are valid for six (6) months. The owner shall request building permits before the improvement plans expire.

(g) In the minor subdivision procedure:

(1) The owner shall return the completed submittal packet, including a proposed plat, within one (1) year after the pre-application conference.

(2) Within sixty (60) days after the city staff notifies the owner that improvement plans may be submitted, the owner shall submit improvement plans, including a proposed final plat, for city staff review.

(h) In the condominium procedure:

(1) Within one (1) year after Development Review Board approval of a new condominium site plan, the owner shall submit improvement plans and a proposed condominium plat to the city staff.

(2) If no Development Review Board decision is required, the owner shall submit a proposed condominium plat within one hundred eighty (180) days after the city staff determines that the conversion or change to an existing condominium is subject to city staff review only.

(3) Within ninety (90) days after city staff approval of any required improvement plans for a converted or changed condominium, the owner shall submit a final condominium plat in conformance with the approved improvement plans, to the city staff. The general manager may grant one ninety (90) day extension to submit a final condominium plat.

(i) In the perimeter exception procedure:

(1) The owner shall return the completed submittal packet, including a proposed site plan, within six (6) months after the pre-application conference.

(2) Within twelve (12) months after the owner returns the completed submittal packet and proposed site plan, the owner is responsible for having the site plan ready for Development Review Board decision, to the satisfaction of the city staff.

(3) An approved site plan is valid for twelve (12) months. If the owner does not receive city council approval of the perimeter exception plat and perimeter exception development agreement before the site plan expires, the owner may request an extension. The Development Review Board may grant one (1) extension of the approved site plan up to twelve (12) months.

(4) Within six (6) months of city council approval of both the perimeter exception plat and the perimeter exception development agreement, the owner shall submit the proposed final perimeter exception plat.

(j) In the changes to recorded plats procedure, within ninety (90) days after the pre-change conference, the owner shall initiate the applicable land division procedure by filing the appropriate document with the city staff.

ARTICLE II. LAND DIVISION PROCEDURES

DIVISION 1. TYPES OF PROCEDURES

Sec. 48-15. Types of procedures.

These are the procedures applicable to the division of land:

- (1) Master planned property
- (2) Subdivisions—residential and non-residential
- (3) Minor subdivisions
 - (a) Residential
 - (b) Non-residential
- (4) Condominiums—residential and non-residential
- (5) Perimeter exceptions
- (6) Changes to recorded land divisions.

DIVISION 2. MASTER PLANNED PROPERTY

Sec. 48-20. Purpose.

The purpose of this division is to set forth procedures for master planning large complex property that is complicated due to its size, multiple ownership, phased construction, and/or unusual topography or other conditions. Master planned property contemplates two steps of land divisions: first, to plan the public improvements and parcel layout, and second, to divide each parcel into subdivisions, minor subdivisions, condominiums, perimeter exceptions and/or phases of construction.

Sec. 48-21. Outline of master planning procedure.

The preparation, submittal, review, and approval of all proposals for master planned property shall proceed through the following stages:

- (a) Stage I, Pre-application and conference
- (b) Stage II, Development master plan
- (c) Stage III, Master planned property plat
- (d) Stage IV, Recordation of master planned property plat
- (e) Stage V, Land division applications
- (f) Master planned property and zoning map amendments

Sec. 48-22. Stage I, Pre-application and conference.

Before submitting a development master plan, the owner shall meet with the city staff to present a proposed development master plan, including plans regarding land use, parcel layout, and public improvements.

Sec. 48-23. Stage II, Development master plan.

(a) The owner may choose, or the city staff may require the owner, to prepare a preliminary development master plan.

(b) The owner shall prepare a preliminary development master plan showing the following elements: land use, public sites, environmental design, circulation, recreation, water, wastewater, drainage and other elements as set forth in the Design Standards and Policies Manual. The city staff may waive one or more elements of the plan, if they are inapplicable.

(c) The city staff may approve the preliminary development master plan as submitted, return the preliminary development master plan for additional information or revision, or deny the preliminary development master plan. Portions of the preliminary development master plan are subject to Development Review Board approval, when so stipulated in a zoning map amendment case. The city staff shall determine when a preliminary development master plan becomes the development master plan with which subsequent submittals shall conform. The city staff shall mark and date the preliminary development master plan to indicate that it is the development master plan approved by the city staff.

(d) The development master plan shall remain valid as set forth in this chapter, and may be amended and extended as set forth in this chapter.

Sec. 48-24. Stage III, Master planned property plat.

The owner shall submit a master planned property plat, prepared in conformance with the approved master development plan, to the city staff. The city staff may approve the master planned property plat, return it for additional information or revision, or deny it.

Sec. 48-25. Stage IV, Recordation of master planned property plat.

- (a) The city shall record a master planned property plat only after city approval.

(b) The city shall issue permits only after the master planned property plat has been recorded.

Sec. 48-26. Stage V, Land division applications.

After approval of the development master plan and recordation of the master planned property plat, the owner may initiate land division applications.

Sec 48-27. Master planned property and zoning map amendments.

If a zoning map amendment is proposed for a master planned property in conjunction with the procedure to approve a development master plan, instead of city staff approval, the master planned property plat shall be subject to city council approval.

DIVISION 3. SUBDIVISIONS - - RESIDENTIAL AND NON-RESIDENTIAL

Sec. 48-30. Purpose.

The purpose of this division is to set forth procedures for proposals to subdivide residential or non-residential property, or both. Proposals to subdivide property in conformance with this division that contain unusual conditions due to size, multiple ownership, multiple uses, phased construction, difficult topography or other exceptional conditions may be required to follow the master planned property procedure.

Sec. 48-31. Outline of subdivision procedure.

All proposals for subdivisions shall proceed through the following stages:

- (a) Stage I, Pre-application and conference
- (b) Stage II, Preliminary plat application
- (c) Stage III, Development Review Board decision
- (d) Stage IV, Improvement plans and final plat
- (e) Stage V, City council decision

Sec. 48-32. Stage I, Pre-application and conference.

(a) Before preparing a preliminary plat, the owner shall file a pre-application for city staff review.

(b) The owner shall meet with the city staff to present a general outline of the proposed subdivision, including plans regarding land use, layout, lot size, design and public improvements.

Sec. 48-33. Stage II, Preliminary plat application.

(a) The preliminary plat serves to identify the public and private facilities and their proposed uses, and to create the basis of design for improvements.

(b) For a residential subdivision, the owner shall file a preliminary plat application.

(c) For a non-residential subdivision, the owner shall file a preliminary plat application, plus a proposed site plan in conformance with the preliminary plat. If public and/or private facilities are shared, the owner shall submit a shared facilities agreement with the proposed site plan.

(d) When the preliminary plat application, site plan and/or shared facilities agreement, when applicable, are complete, the city staff shall review those documents. When the preliminary plat is ready for Development Review Board decision, the city staff shall prepare a report, including a recommendation for approval or denial, for presentation to the Development Review Board. The city staff shall include the site plan in the report, when applicable.

(e) The shared facilities agreement is subject to city staff approval.

Sec. 48-34. Stage III, Development Review Board decision.

The Development Review Board may approve the preliminary plat as filed, approve the preliminary plat with stipulations, continue the preliminary plat for additional information or revision, or deny the preliminary plat. In non-residential subdivisions, the Development Review Board may approve the site plan as filed, approve the site plan with stipulations, continue the site plan for additional information or revision, or deny the site plan.

Sec. 48-35. Stage IV, Improvement plans and final plat.

(a) The final plat stage of the subdivision procedure includes final design of the subdivision, engineering of public improvements, submittal and review of the improvement plans and the final plat.

(b) The owner shall submit improvement plans, including a proposed final plat. The improvement plans shall be prepared in substantial conformance with the approved preliminary plat and the approved site plan, when applicable.

(c) After the city staff has approved the improvement plans, the owner shall submit the final plat reflecting any required revisions. The city staff shall review the final plat. The final plat shall be in conformance with the improvement plans and in substantial conformance with the approved preliminary plat. If the city staff determines that the final plat is not in substantial conformance with the approved preliminary plat, then the final plat shall be resubmitted to the Development Review Board which may require a new preliminary plat or changes to the final plat.

(d) When the final plat is ready for city council decision, the city staff shall prepare a report for presentation to the city council.

Sec. 48-36. Stage V, City council decision and recordation.

The city council shall approve the final plat if it conforms to all applicable statutes, rules, regulations, ordinances, plans and policies referred to in section 48-4. The city shall be responsible for recording the approved final plat as set forth in this chapter.

DIVISION 4A. MINOR SUBDIVISIONS--RESIDENTIAL

Sec. 48-45. Purpose.

The purpose of this division is to create a separate procedure to subdivide certain residential property into five (5) or fewer lots. This procedure recognizes that minor subdivisions involve simple land division issues and, in some limited cases, fewer public improvements. Factors included in this consideration are the property's size, ownership, development standards, topography or other conditions. If complications arise in processing the proposed minor subdivision, the owner may be required to follow the subdivision procedure.

Sec. 48-46. Outline of residential minor subdivision procedure.

A proposed residential minor subdivision shall proceed through the following stages:

- (1) Stage I, Pre-application and conference
- (2) Stage II, Submittal packet and city staff review
- (3) Stage III, Improvement plans and final plat
- (4) Stage IV, General manager decision

Sec. 48-47. Stage I, Pre-application and conference.

(a) To present a proposed residential minor subdivision, the owner shall file a pre-application for city staff review.

(b) The owner shall meet with the city staff to present a general outline of the proposed minor subdivision, including plans regarding land use, layout, lot size, design and public improvements. If the proposal appears to meet the requirements for a minor subdivision, the city staff will give the owner a submittal packet. If the proposal does not appear to meet the requirements for a minor subdivision, the city staff will advise the owner regarding the subdivision procedure. The owner may appeal the city staff decision as set forth in this chapter.

Sec. 48-48. Stage II, Submittal packet and city staff review.

(a) The owner shall return the completed submittal packet, including a proposed plat, to the city staff.

(b) The city staff shall meet with the owner to review the submittal packet and proposed plat. After approval of the submittal packet, the city staff shall notify the owner in writing of the owner's right to submit improvement plans. The city staff may impose stipulations on improvement plans.

Sec. 48-49. Stage III, Improvement plans and final plat.

(a) The final plat stage of the minor subdivision procedure includes final design of the minor subdivision, engineering of public improvements, submittal and review of the improvement plans and the final plat, and consideration of any additional documents.

(b) The owner shall submit improvement plans, including a proposed final plat, and may submit a waiver request for city staff review. The improvement plans shall be in conformance

with city staff stipulations. The waiver request shall be on department forms and include evidence that granting the waiver shall not unduly burden existing public improvements.

(c) After the city staff has approved the improvement plans, the owner shall submit a final plat reflecting any required revisions. The final plat shall be in conformance with the approved improvement plans. When the final plat and any waiver request are ready for general manager decision, the city staff shall forward the final plat and waiver request to the general manager.

Sec. 48-50. Stage IV, General manager decision and recordation.

(a) The city council delegates to the general manager the city council's authority to approve final plats for minor subdivisions and grant waiver requests.

(b) The general manager shall approve the final plat if it conforms to all applicable statutes, rules, regulations, ordinances, plans and policies referred to in section 48-4. The city shall be responsible for recording the approved final plat as set forth in this chapter. As an exception to the general requirements for land divisions in this chapter, the general manager may also approve a waiver request only if the owner constructs dust-controlled access and minimum drainage requirements, and other required public improvements that are reasonably related to the minor subdivision, as determined by the city staff.

Sec. 48-51. Limitations for residential minor subdivisions.

If an owner attempts to divide any lot in a minor subdivision recorded after the effective date of this ordinance, then:

(1) The recorded minor subdivision plus all the new lots shall comply with all the subdivision requirements in division 3 of this chapter existing when the new lots are created;

(2) The owner shall file a preliminary and final plat for the minor subdivision plus the new lots in conformance with the subdivision requirements; and

(3) If any public improvement requirements were waived or reduced in the original minor subdivision, the owner shall construct all the public improvement requirements previously waived or reduced.

DIVISION 4B. MINOR SUBDIVISIONS--NON-RESIDENTIAL

Sec. 48-55. Purpose.

The purpose of this division is to create a separate procedure to subdivide certain non-residential property into five (5) or fewer lots. This procedure recognizes that certain non-residential minor subdivisions are simple to process in terms of size, ownership, development standards, topography or other conditions. If complications arise in processing the proposed minor subdivision, the owner may be required to follow the subdivision procedure in division 3 of this chapter.

Sec. 48-56. Outline of non-residential minor subdivision procedure.

A proposed non-residential minor subdivision shall proceed through the following stages:

- (1) Stage I, Pre-application and conference
- (2) Stage II, Submittal packet, Development Review Board application and city staff review
- (3) Stage III, Improvement plans and final plat
- (4) Stage IV, General manager decision

Sec. 48-57. Stage I, Pre-application and conference.

(a) To present a proposed non-residential minor subdivision, the owner shall file a pre-application for city staff review.

(b) The owner shall meet with the city staff to present a general outline of the proposed minor subdivision, including plans regarding land use, layout, lot size, design and public improvements. If the proposal appears to meet the requirements for a minor subdivision, the city staff will give the owner a submittal packet, and advise the owner about the Development Review Board procedure.

Sec. 48-58. Stage II, Submittal packet, Development Review Board application and city staff review.

(a) The owner shall return the completed submittal packet, including a proposed plat and shared facilities agreement (if facilities are shared), and concurrently, file a Development Review Board application to review the site plan.

(b) The city staff shall meet with the owner to review the submittal packet. The Development Review Board shall review the application and may impose stipulations on the site plan.

(c) After city staff approval of the submittal packet and Development Review Board approval of the site plan, the city staff shall notify the owner in writing of the owner's right to submit improvement plans. The city staff may impose stipulations on improvement plans.

Sec. 48-59. Stage III, Improvement plans and final plat.

(a) The final plat stage of the non-residential minor subdivision procedure includes final design of the minor subdivision, engineering of public improvements, submittal and review of the improvement plans and the final plat.

(b) The owner shall submit improvement plans, including a proposed final plat, for city staff review. The improvement plans shall be in conformance with city staff and Development Review Board stipulations.

(c) After the city staff has approved the improvement plans, the owner shall submit a final plat reflecting any required revisions. The final plat shall be in conformance with the approved improvement plans. The city staff shall review the final plat, and upon approval, forward it to the general manager.

Sec. 48-60. Stage IV, General manager decision and recordation.

(a) The city council delegates to the general manager the city council's authority to approve final plats for non-residential minor subdivisions.

(b) The general manager shall approve the final plat if it conforms to all applicable statutes, rules, regulations, ordinances, plans and policies referred to in section 48-4. The city shall be responsible for recording the approved final plat as set forth in this chapter.

Sec. 48-61. Limitations for non-residential minor subdivisions.

A non-residential minor subdivision shall be approved only if:

(1) It is integrated into shared facilities agreement (if facilities are shared) satisfactory to the city staff; and

(2) Any changes to the shared public and private facilities, such as parking, open space, retention, drainage and access, do not materially affect their functions to serve the minor subdivision, as determined by the city staff in conformance with the purpose of this division.

DIVISION 5. CONDOMINIUMS – RESIDENTIAL AND NON-RESIDENTIAL

Sec. 48-65. Purpose.

The purpose of this division is to set forth procedures for the following land divisions: (1) creating a condominium, (2) converting an existing development to a condominium, and (3) changing the unit/suite or common area property lines of an existing condominium. In lieu of the procedures below, an owner proposing any of the land divisions listed above may follow the procedure for a subdivision in division 3 of this chapter.

Sec. 48-66. Procedure—new condominium.

(a) If an owner intends to develop a new condominium, the owner shall file a site plan for Development Review Board decision.

(b) After Development Review Board approval of the condominium site plan, the owner shall submit improvement plans and a proposed condominium plat to the city staff. The city staff may require revisions to the improvement plans and impose stipulations on the condominium plat. After the city staff has approved the improvement plans, the owner shall submit a condominium plat reflecting any required revisions. The condominium plat shall be in conformance with the improvement plans as approved.

Sec. 48-67. Procedure—conversion or change to a condominium.

(a) If an owner intends to convert an existing development to a condominium, or change the unit/suite or common area property lines of an existing condominium, the owner shall meet with the city staff to present a general outline of the proposed conversion or change, including plans regarding land use, layout, unit/suite size, design and public improvements. Using the guidelines set forth in the Design Standards and Policies Manual, the city staff will determine what procedure the owner may use to accomplish the conversion or change. A conversion of an existing development to a non-residential condominium or a change to a non-residential condominium may be subject to Development Review Board decision.

(b) If the city staff determines that Development Review Board decision is required, the owner shall follow the process for a new condominium. If the city staff determines that the conversion or change is subject to city staff review, the owner shall submit a proposed condominium plat to the city staff. If the conversion or change warrants improvement plans, as determined by the city staff in conformance with the Design Standards and Policies Manual, the owner shall submit improvement plans. The city staff may require revisions to the improvement plans and impose stipulations on the condominium plat. After the city staff has approved the improvement plans, the owner shall submit a condominium plat reflecting any required revisions. The condominium plat shall be in conformance with the improvement plans as approved.

Sec. 48-68. Recordation.

The city shall be responsible for recording the approved condominium plat as set forth in this chapter.

DIVISION 6. PERIMETER EXCEPTIONS

Sec. 48-70. Purpose.

The purpose of this division is to set forth procedures to allow property to be developed based on development standards applicable to the property as defined by its perimeter, not by the development standards that would be applicable to the individual lots, tracts and parcels into which it may be divided. This kind of land division recognizes that: (1) the result will be superior to what may be achieved through standard land division procedures, by preserving unique landforms and natural features, providing exceptional open space and amenities, and assuring design consistency; (2) innovative development, redevelopment, design, ownership and financing techniques are enhanced by the flexibility provided by these procedures; and (3) long-term viability of the projects using these procedures requires stable, sufficiently funded property owners associations capable of managing shared facilities.

Generally, the perimeter exception procedure will be applicable to properties with the following characteristics: (1) the project is planned for mixed uses and contains multiple buildings; and (2) the project includes multiple ownerships, possible vertical as well as horizontal spaces; and (3) the project is of sufficient size and economic impact to warrant the complications in processing, construction and administration. The lot, as defined by its perimeter, must meet all the property development standards of the applicable zoning district. No residential properties with an R1 designation will be considered for this procedure.

Sec. 48-71. Outline of perimeter exception procedure.

A proposed perimeter exception shall proceed through the following stages:

(1) Stage I, Pre-application and conference

(2) Stage II, Development Review Board application and proposed perimeter exception development agreement

(3) Stage III, Development Review Board decision

(4) Stage IV, Improvement plans and proposed perimeter exception plat

(5) Stage V, City council decision

(5) Stage VI, Final perimeter exception plat

Sec. 48-72. Stage I, Pre-application and conference.

(a) To present a proposed perimeter exception, the owner shall file a pre-application for city staff review.

(b) The owner shall meet with the city staff to present a general outline of the proposed perimeter exception, including plans regarding land use, layout, lot size, design and public improvements. If the proposal appears to meet the requirements for a perimeter exception, the city staff will give the owner a submittal packet and advise the owner about the Development Review Board and city council procedure.

Sec. 48-73. Stage II, Development Review Board application and proposed perimeter exception development agreement.

(a) The owner shall submit an application for a perimeter exception, a proposed site plan, and a proposed perimeter exception development agreement that contains a shared facilities agreement. These documents shall be in conformance with the Design Standards and Policies Manual.

(b) The owner will negotiate the perimeter exception development agreement with the city staff in time for the city staff's preparation of its report to the city council.

(c) When the proposed site plan is ready for Development Review Board decision, the city staff shall prepare a report, including a recommendation for approval or denial, for presentation to the Development Review Board.

Sec. 48-74. Stage III, Development Review Board decision.

The Development Review Board may approve the site plan as filed, approve the site plan with stipulations, continue the site plan for additional information or revision, or deny the site plan.

Sec. 48-75. Stage IV, Improvement plans and proposed perimeter exception plat.

After the Development Review Board has approved the site plan, the owner shall submit improvement plans, including a proposed perimeter exception plat in conformance with the approved site plan and perimeter exception development agreement. After the city staff has approved the improvement plans and the perimeter exception plat is ready for city council decision, the city staff shall prepare a report for presentation to the city council.

Sec. 48-76. Stage V, City council decision.

(a) The city council may approve the perimeter exception plat as filed, approve it with stipulations, continue it for additional information or revision, or deny it. The city council may approve the perimeter exception development agreement as filed, approve it with stipulations, continue it for additional information or revision, or deny it.

(b) Until the city council has approved both the perimeter exception plat and the perimeter exception development agreement, the city staff shall not accept the proposed final perimeter exception plat.

Sec. 48-77. Stage VI, Final perimeter exception plat and recordation.

The owner shall submit the proposed final perimeter exception plat in conformance with the approved improvement plans and with city staff, Development Review Board and city council stipulations. The owner shall submit the final perimeter exception plat reflecting any required revisions. The city shall be responsible for recording the approved final perimeter exception plat as set forth in this chapter.

DIVISION 7. CHANGES TO RECORDED LAND DIVISIONS

Sec. 48-80. Purpose.

The purpose of this division is to facilitate changes to recorded land divisions in an efficient manner. These procedures do not effectuate an abandonment of streets or easements; an abandonment requires conformance to all applicable statutes, rules, regulations, ordinances, plans and policies referred to in section 48-4.

Sec. 48-81. Pre-change conference.

The owner shall meet with the city staff to determine what procedure is applicable for changing the land division. Using the guidelines set forth in the Design Standards and Policies Manual regarding the scope and impact of the changes, the city staff shall determine whether the change to the recorded land division is subject to a complete revision, partial revision, certificate of correction or land assemblage.

Sec. 48-82. Complete revision.

If the city staff determines that the recorded land division is subject to a complete revision, the owner shall initiate the appropriate land division procedure as set forth in this chapter.

Sec. 48-83. Partial revision.

(a) If the city staff determines that a plat is subject to a partial revision, the owner shall file the revised plat with the city staff.

(b) If the revision affects any of the following, the city staff shall prepare a report for presentation to the city council, when the city staff determines the revision is ready for city council consideration:

- (1) The revised plat reflects changes to a recorded final plat for a subdivision;
- (2) The revised plat reflects changes to a master planned property plat approved in conjunction with a zoning map amendment request; or
- (3) The revised plat reflects changes to a perimeter exception.

(c) In the case of changes to a recorded final plat for a subdivision, the city council shall approve the revised plat if it (i) substantially conforms to the approved preliminary plat, and (ii) conforms to all applicable statutes, rules, regulations, ordinances, plans and policies referred to in section 48-4. In the case of changes to a master planned property plat approved in conjunction with a zoning map amendment request, or changes to a perimeter exception, the city council may approve the revision as filed, approve it with stipulations, continue it for additional information or revision, or deny it.

(d) If the revision affects any of the following, the city staff shall approve the revision if it conforms to all applicable statutes, rules, regulations, ordinances, plans and policies referred to in section 48-4:

- (1) The revised plat reflects changes to a recorded plat for a minor subdivision;
- (2) The revised plat reflects changes to a recorded plat for a condominium;
- (3) The revised plat reflects changes to a master planned property plat unrelated to a zoning map amendment request.

Sec. 48-84. Certificate of correction procedure.

(a) If the city staff determines that a final plat is subject to a certificate of correction procedure, the owner shall file the certificate of correction with the city staff.

(b) The city staff may approve the certificate of correction as filed, return the certificate of correction for additional information or revision, or deny the certificate of correction.

Sec. 48-85. Requirements and limitations for non-residential land division changes.

A change to a non-residential land division shall be approved only if:

- (1) It is integrated into shared facilities agreement (if facilities are shared) satisfactory to the city staff; and
- (2) Any changes to the shared public and private facilities, such as parking, open space, retention, drainage and access, do not materially affect their functions to serve the original land, as determined by the city staff in conformance with the purpose of this division.

Sec. 48-86. Land assemblage.

(a) If the city staff determines that a plat is subject to a land assemblage, the owner shall file the revised plat with the city staff.

(b) Using the guidelines set forth in the Design Standards and Policies Manual, the city staff may require a city council decision for the land assemblage. If a city council decision is required, the city staff shall prepare a report for presentation to the city council, when the city staff determines the land assemblage is ready for city council decision. If no city council decision is required, the city staff may approve the land assemblage as filed, return the land assemblage for additional information or revision, or deny the land assemblage.

Sec. 48-87. Recordation.

The city shall be responsible for recording the approved final document reflecting the change as set forth in this chapter.

ARTICLE III. PUBLIC IMPROVEMENTS; ASSURANCES

Sec. 48-100. Purpose.

The purpose of this article is to confirm the responsibility of the owner to construct all public improvements required for approval of the land division. The purpose of a bond or other assurance is to assure timely and proper construction of public improvements by the owner or by a bonding company on behalf of the owner, without expense to the city.

Sec. 48-101. Owner's responsibility for public improvements.

The owner shall construct, at its expense, the public improvements required by the city for approval of any land division. All construction shall comply with approved improvement plans, and all other applicable statutes, rules, regulations, ordinances, plans and policies referred to in section 48-4.

Sec. 48-102. Assurances.

(a) To assure the timely and proper construction of the public improvements, before the city staff records any land division document, the owner shall:

(1) Enter into an agreement with the city to construct the public improvements and maintain the public improvements for at least one (1) year after the city accepts the completed public improvements; and

(2) Provide the city a cash deposit, letter of credit, or bond for constructing the public improvements.

(b) The Design Standards and Policies Manual shall set forth:

(1) The forms of all documents, as approved by the city attorney, required to comply with this section, and

(2) Additional guidance for the implementation of this article.

Sec. 48-103. City options regarding incomplete public improvements.

(a) The city shall not issue any building permit for any structure until all applicable public improvements have been constructed to the satisfaction of the city staff, inspected and accepted.

(b) If the owner fails to timely and properly construct the public improvements as set forth in the agreement, the city may take any one or more of the following actions, at the owner's expense:

(1) Decline to process or issue building permits, occupancy clearances or other regulatory approvals or inspections;

(2) Complete, remove and/or modify the public improvements in whole or in part;

- (3) Restore any disturbed land;
- (4) Bring action to enforce the owner's responsibility under this chapter or under the agreement to construct the public improvements;
- (5) Bring action to enforce the assurance to construct the public improvements; and/or
- (6) Otherwise mitigate the effects of the owner's failure to construct the public improvements.

ARTICLE IV. APPEALS

Sec. 48-120. Types of appeal procedures.

(a) Except for a dedication or exaction required as part of a legislative act, an appeal of a dedication or exaction required by an administrative agency or city official as a condition of granting approval for a land division shall be taken as set forth in Resolution 6161, Policy of the City of Scottsdale on Appeals of Dedications, Exactions, or Zoning Regulations, and all amendments.

(b) Except for the appeal described above, an appeal of the following city staff decisions shall be taken to the general manager:

- (1) An appeal of the applicability of this chapter to an application.
- (2) An appeal of any deadline or any city staff denial of an extension.
- (3) An appeal of a city staff decision regarding a minor subdivision or waiver request.
- (4) An appeal of a city staff decision regarding the applicability of the perimeter exception procedure to a property.
- (5) An appeal of a city staff decision regarding stipulations or the satisfaction of stipulations imposed on any plat for a proposed land division.
- (6) An appeal of a city staff decision regarding what procedure is applicable for changing a recorded land division.
- (7) An appeal of a city staff decision regarding readiness of a land division document for recordation.

Sec. 48-121. Who may appeal.

Only an owner may appeal a decision under this chapter.

Sec. 48-122. How to appeal.

(a) An appeal may be taken from a written decision only. An owner may request a written decision. Within fifteen (15) work days of an owner's written request for a written

decision, the city staff shall respond with a written statement of decision. The appeal from a written decision shall be made within ten (10) work days of the decision appealed from. The appeal shall be filed with the city clerk, and a copy of the appeal shall be delivered to the general manager.

(b) All appeals shall be in writing and state:

(1) The grounds for the appeal; and

(2) The relief requested.

(c) Each appeal shall include a copy of the written decision appealed from and whatever documents the owner intends to rely on in presenting the appeal.

Sec. 48-123. Informal hearing.

(a) Upon the city's receipt of a written appeal, the city staff shall schedule an informal hearing before the general manager no later than thirty (30) days after receipt of the appeal request. The city staff shall notify the owner in writing, by regular United States mail, of the date, time and place of the hearing at least seven (7) work days before the hearing.

(b) The hearing shall be limited to the issues raised by the owner in the written appeal.

(c) Each party to the hearing may be represented by counsel and shall have an opportunity to present its case. The hearing shall be informal and the legal rules of evidence shall not apply. The decision on the appeal shall be in writing, and shall be issued within five (5) work days of the hearing.

Sec. 48-124. Appeal of general manager's decision.

(a) An appeal may be taken of the general manager's (i) interpretation of this chapter, or (ii) decision under this article. An appeal of the general manager's interpretation may be taken from a written decision only. An owner may request a written decision. Within fifteen (15) work days of an owner's written request for a written decision, the general manager shall respond with a written statement of decision.

(b) An appeal of the general manager's (i) interpretation of this chapter, or (ii) decision under this article shall be in writing and submitted to the Board of Adjustment within ten (10) days of the decision appealed from. A copy of the appeal shall be delivered to the general manager.

(c) All appeals shall be in writing and state:

(1) The grounds for the appeal; and

(2) The relief requested.

(d) Each appeal shall include a copy of the written decision appealed from and the record of the appeal before the general manager.

(e) The city staff shall notify the owner in writing, by regular United States mail, of the date, time and place of the Board of Adjustment meeting at least seven (7) work days before the meeting.

(f) The Board of Adjustment's consideration of the appeal shall not be de novo, but limited to the record below. The Board of Adjustment shall determine whether the general manager's decision is arbitrary, capricious or an abuse of discretion. The decision on the appeal shall be in writing, and shall be issued within five (5) work days of the hearing.

ARTICLE V. VIOLATIONS AND REMEDIES

Sec. 48-130. Violations.

(a) It is a violation of this chapter to sell or lease, offer for sale or lease, or exchange any lot, tract or parcel without having first recorded a document approved in conformance with this chapter.

(b) It is a violation of this chapter to obtain a permit for any lot, tract or parcel, or to act in reliance upon a permit for any lot, tract or parcel, if the permit is issued in violation of this chapter.

Sec. 48-131. Remedies.

(a) As a result of a violation of this chapter, the city may take the following actions as to the property where the violation took place:

- (1) Stop processing any land division or other procedure;
- (2) Refuse to conduct any inspections, or issue any permits;
- (3) Cancel any permit;
- (4) Issue stop work orders;
- (5) Refuse to issue a temporary or permanent certificate of occupancy; and/or

(6) Take such other actions to assure that the property does not benefit from the violation.

(b) Upon receipt of evidence that a lot has been created through a procedure other than those set forth in this chapter, the city may record a notice against the property that no permit shall be issued for the lot until it is created in conformance with the procedures set forth in this chapter.